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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,169	02/19/2004	Shane D. Pannell	122308.00003	7168
26707	7590	11/01/2005		
QUARLES & BRADY LLP RENAISSANCE ONE TWO NORTH CENTRAL AVENUE PHOENIX, AZ 85004-2391			EXAMINER KIM, CHRISTOPHER S	
			ART UNIT 3752	PAPER NUMBER

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/783,169

Applicant(s)

PANNELL ET AL.

Examiner

Christopher S. Kim

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 20-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I in the reply filed on August 23, 2005 is acknowledged.
2. Claims 20-37 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on August 23, 2005.

Response to Amendment

3. The response filed on May 2, 2005 is acknowledged.
4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "form-fitted" recited in claims 3, 15, 23; the "nozzle is adjustable" recited in claims 8, 19, 26; the "quick-connecting fitting" recited in claims 10, 27, 32, 37 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

6. Claims 1, 4-9, 12, 13, 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Smagac et al. (5,165,482).

Smagac discloses a chemical distribution system comprising : a first portion of tubing 19, 20; a second portion of tubing 27; a ready-disconnect mechanism (connector between tank 9 and piping 18-20, 24).

Claim Rejections - 35 USC § 103

7. Claims 2, 3, 14, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smagac et al. (5,165,482) in view of Valiant (4,175,703).

Smagac discloses the limitations of the claimed invention with the exception of the clamps. Valiant discloses form fitting clamps 27 used to route conduit 20. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have used the claims of Valiant to route the tubing of Smagac to prevent substantial harm to the appearance of the building (Valiant, column 1, lines 50-54).

8. Claim 10, is rejected under 35 U.S.C. 103(a) as being unpatentable over Smagac et al. (5,165,482).

Smagac discloses the limitations of the claimed invention with the exception of the quick-connect fitting. Quick-connect fittings are well known in the art. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the connector of Smagac with a quick-connect fitting for quick and ease of connects.

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smagac et al. (5,165,482) in view of Coles (1,235,657).

Smagac discloses the limitations of the claimed invention with the exception of the lever-arm. Coles discloses a connector having a lever-arm 6. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have replaced the connector of Smagac with the connector of Coles for tool free installation.

Response to Arguments

10. Applicant's arguments filed May 2, 2005 have been fully considered but they are not persuasive.

Regarding the drawing corrections, it is not apparent what applicant is attempting to show by the change to element designated with reference character 48. Additionally, applicant asserts that figures 3 and 5 show spray nozzles 58 being adjustable. No such detail can be ascertained by the drawing. Finally, applicant asserts that claims 54 in figure 3 are shown to be form-fitting to tubing 50. No such detail can be ascertained by the drawing.

Applicant argues that claim 1 now recites a "ready-disconnect mechanism." Smagac inherently has a connection between the tank 9 and piping 18-20, 24. Giving the term "ready-disconnect mechanism" the broadest reasonable interpretation, the connection of Smagac would constitute a ready-disconnect mechanism. The fails to further define "ready-disconnect mechanism."

In response to applicant's argument that Smagac does not teach a chemical distribution system for a chemical solution having properties of killing living organisms, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Conclusion


11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (571) 272-4905. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Christopher S. Kim
Primary Examiner
Art Unit 3752

CK